

Senate File 2337 - Enrolled

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1 1 SENATE FILE 2337
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1 3 AN ACT
1 4 RELATING TO THE PURCHASE OF LIABILITY INSURANCE AND TO SELF-
1 5 INSURANCE BY THE ASSOCIATION OF IOWA FAIRS.
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1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 9 Section 1. Section 87.4, Code 2007, is amended to read as
1 10 follows:
1 11 87.4 GROUP AND SELF=INSURED PLANS == TAX EXEMPTION == PLAN
1 12 APPROVAL.
1 13 For the purpose of complying with this chapter, groups of
1 14 employers by themselves or in an association with any or all
1 15 of their workers, may form insurance associations as hereafter
1 16 provided, subject to such reasonable conditions and
1 17 restrictions as may be fixed by the insurance commissioner;
1 18 and membership in such mutual insurance organization as
1 19 approved, together with evidence of the payment of premiums
1 20 due, shall be evidence of compliance with this chapter.
1 21 A self-insurance association formed under this section and
1 22 an association comprised of cities or counties, or both, or
1 23 the association of county fairs or a fair as defined in
1 24 section 174.1, or community colleges as defined in section
1 25 260C.2 or school corporations, or both, or other political
1 26 subdivisions, which have entered into an agreement under
1 27 chapter 28E for the purpose of establishing a self-insured
1 28 program for the payment of workers' compensation benefits are
1 29 exempt from taxation under section 432.1.
1 30 A plan shall be submitted to the commissioner of insurance
1 31 for review and approval prior to its implementation. The
1 32 commissioner shall adopt rules for the review and approval of
1 33 a self-insured group plan provided under this section. The
1 34 rules shall include, but are not limited to, the following:
1 35 1. Procedures for submitting a plan for approval including
2 1 the establishment of a fee schedule to cover the costs of
2 2 conducting the review.
2 3 2. Establishment of minimum financial standards to ensure
2 4 the ability of the plan to adequately cover the reasonably
2 5 anticipated expenses.
2 6 A self-insured program for the payment of workers'
2 7 compensation benefits established by an association comprised
2 8 of cities or counties, or both, or the association of county
2 9 fairs or a fair as defined in section 174.1, or community
2 10 colleges, as defined in section 260C.2, or other political
2 11 subdivisions, which have entered into an agreement under
2 12 chapter 28E, is not insurance, and is not subject to
2 13 regulation under chapters 505 through 523C. Membership in
2 14 such an association together with payment of premiums due
2 15 relieves the member from obtaining insurance as required in
2 16 section 87.1. Such an association is not required to submit
2 17 its plan or program to the commissioner of insurance for
2 18 review and approval prior to its implementation and is not
2 19 subject to rules or rates adopted by the commissioner relating
2 20 to workers' compensation group self-insurance programs. Such
2 21 a program is deemed to be in compliance with this chapter.
2 22 The workers' compensation premium written on a municipality
2 23 which is a member of an insurance pool which provides workers'
2 24 compensation insurance coverage to a statewide group of
2 25 municipalities, as defined in section 670.1, shall not be
2 26 considered in the determination of any assessments levied
2 27 pursuant to an agreement established under section 515A.15.
2 28 Sec. 2. NEW SECTION. 174.8A LIABILITY INSURANCE.
2 29 The association of Iowa fairs, or a fair, shall have the
2 30 power to join a local government risk pool as provided in
2 31 section 670.7.
2 32 Sec. 3. Section 670.7, Code 2007, is amended to read as
2 33 follows:
2 34 670.7 INSURANCE.
2 35 1. The governing body of a municipality may purchase a
3 1 policy of liability insurance insuring against all or any part
3 2 of liability which might be incurred by the municipality or
3 3 its officers, employees, and agents under section 670.2 and

3 4 section 670.8 and may similarly purchase insurance covering
3 5 torts specified in section 670.4. The governing body of a
3 6 municipality may adopt a self=insurance program, including but
3 7 not limited to the investigation and defense of claims, the
3 8 establishment of a reserve fund for claims, the payment of
3 9 claims, and the administration and management of the
3 10 self=insurance program, to cover all or any part of the
3 11 liability. The governing body of a municipality may join and
3 12 pay funds into a local government risk pool to protect itself
3 13 against any or all liability. The governing body of a
3 14 municipality may enter into insurance agreements obligating
3 15 the municipality to make payments beyond its current budget
3 16 year to provide or procure the policies of insurance,
3 17 self=insurance program, or local government risk pool. The
3 18 premium costs of the insurance, the costs of a self=insurance
3 19 program, the costs of a local government risk pool, and the
3 20 amounts payable under the insurance agreements may be paid out
3 21 of the general fund or any available funds or may be levied in
3 22 excess of any tax limitation imposed by statute. However, for
3 23 school districts, the costs shall be included in the district
3 24 management levy as provided in section 296.7 if the district
3 25 has certified a district management levy. If the district has
3 26 not certified a district management levy, the cost shall be
3 27 paid from the general fund. Any independent or autonomous
3 28 board or commission in the municipality having authority to
3 29 disburse funds for a particular municipal function without
3 30 approval of the governing body may similarly enter into
3 31 insurance agreements, procure liability insurance, adopt a
3 32 self=insurance program, or join a local government risk pool
3 33 within the field of its operation.

3 34 2. The procurement of this insurance constitutes a waiver
3 35 of the defense of governmental immunity as to those exceptions
4 1 listed in section 670.4 to the extent stated in the policy but
4 2 shall have no further effect on the liability of the
4 3 municipality beyond the scope of this chapter, but if a
4 4 municipality adopts a self=insurance program or joins and pays
4 5 funds into a local government risk pool the action does not
4 6 constitute a waiver of the defense of governmental immunity as
4 7 to the exceptions listed in section 670.4.

4 8 3. The existence of any insurance which covers in whole or
4 9 in part any judgment or award which may be rendered in favor
4 10 of the plaintiff, or lack of any such insurance, shall not be
4 11 material in the trial of any action brought against the
4 12 governing body of a municipality, or its officers, employees,
4 13 or agents and any reference to such insurance, or lack of
4 14 insurance, is grounds for a mistrial. A self=insurance
4 15 program or local government risk pool is not insurance and is
4 16 not subject to regulation under chapters 505 through 523C.

4 17 4. The association of county fairs as defined in section
4 18 174.1, or a fair, shall be deemed to be a municipality as
4 19 defined in this chapter only for the purpose of joining a
4 20 local government risk pool as provided in this section.

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JOHN P. KIBBIE
President of the Senate

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PATRICK J. MURPHY
Speaker of the House

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4 32 I hereby certify that this bill originated in the Senate and
4 33 is known as Senate File 2337, Eighty=second General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

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5 4 Approved _____, 2008

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5 8 CHESTER J. CULVER
5 9 Governor